IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 154 OF 2004

SHRI JOSE AGOSTINHO SEBASTIAO D'SOUZA,SANCOALE GOA ....Appellants

Versus

SHRI JOSE TELLES AND ANR., ...Respondents

Mr. S. S. Kantak with Ms. L. Dharwadkar, advocates for the appellant.

Coram:- R. M. LODHA, J.

Date:- 24th August, 2005

P.C.

Heard Mr. S. S. Kantak, learned counsel for the appellant and perused the judgment of the Appeal Court as well as the trial Court.

Both the courts below have concurrently held that the plaintiff failed to prove that part of his property known as`Combelem' has been wrongly surveyed jointly in the names of the plaintiff's father and defendants under survey nos.26/2 and 26/11. The findings recorded by the courts below are based on appreciation of the evidence on record.

As regards the plaintiff's case that he has acquired ownership right by prescriptive title, the Appeal Court cannot be said to have committed an error in observing that the ingredients of adverse possession are totally missing in the case. On the one hand the plaintiff claims to be owner of the suit property and at the same time he is claiming adverse possession without naming the real owner.

The findings recorded by Appeal Court do not give rise to any substantial question of law.

The Second Appeal is dismissed in limine.

R. M. LODHA, J.